



# City of Wilton Manors

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Gary Resnick  
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City Manager

Kerry Ezrol  
City Attorney

November 13, 2009

## VIA FACSIMILE

Julius Genachowski  
Chairman  
Federal Communications Commission  
445 12th Street SW  
Washington, DC 20554

**Re: Petition for Declaratory Ruling To Clarify Provisions of  
Section 323(c)(7)(B) To Ensure Timely Setting Review  
and to Preempt under Section 353 State and Local  
Ordinances that Classify all Wireless Siting Proposals  
as Requiring of Variance**

Dear Chairman Genachowski:

As a member of the FCC's Intergovernmental Advisory Committee ("IAC"), these comments are submitted in response to the above referenced Petition filed by CTIA. The IAC understands that the Commission will consider a Memorandum Opinion and Order on promoting the deployment of wireless broadband services in response to the Petition at the November 18, 2009, Commission meeting. Several members of the IAC indicated their agreement with these comments. However, the IAC will not have its next meeting until December 7, 2009, and thus, has not had an opportunity to vote on these comments.

We urge the Commission to reject CTIA's Petition. As a primary matter, states, local governments, and Indian tribes have taken significant steps to ensure that applications for siting cell towers and other wireless facilities are effectively and efficiently processed. As the Commission can well appreciate, many times such applications are submitted without all of the required information and thus, the time frames for processing such applications are delayed and additional government staff work is necessary to obtain information required to review and to process such applications.

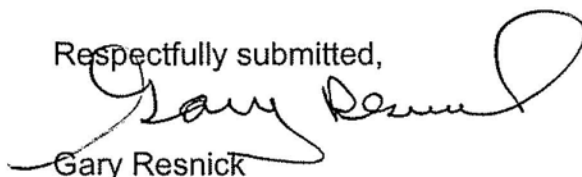
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Page 2 of 2

Second, the so called "shot clock" urged by CTIA creates further problems. First of all, there is no authority under federal law for the Commission to impose such a shot clock. Rather, the federal statute is quite clear as to the process and procedures to follow. In addition, the Commission should be cautious about preempting state, local and Indian tribal laws and regulations as to how such applications are processed. Several states enacted statutes governing how counties, municipalities and other political subdivisions should process applications for cell towers and wireless facilities. Preempting such state laws would call into question the Commission's authority, particularly when the statute does not allow such preemption. This would also create issues concerning applications currently pending and applications filed in the future in such states.

As a further matter, it must be pointed out that applicants for cell towers have mechanisms available to challenge governmental action or inaction under existing federal and state law in court. It would be inconsistent with existing federal, state and local law, and tribal regulations to deem such applications granted if not acted upon by a certain date. As a practical matter, it would be very difficult, if not impossible, for appropriate reviews under state, local and Indian tribal zoning regulations to occur within CTIA's suggested timeframes.

Finally, the Petition is not supported by a factual record that justifies taking such drastic action against states, local governments and Indian tribes. Accordingly, we urge the Commission to reject CTIA's Petition and to continue to allow the constituencies of the IAC -- states, local governments and Indian tribes -- to review such applications under their appropriate processes and procedures. If the Commission is inclined to pursue this issue, we would request that the Commission place this issue on an NPRM to afford interested parties an opportunity to submit factual and relevant comments.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Gary Resnick", with a large, stylized loop at the end.

Gary Resnick  
Mayor of Wilton Manors, FL  
Executive Committee Member of the Florida League of Cities  
Member of the IAC